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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

12 JERRY WAYNE SHUE, JR.,) 1:05-CV-0504 AWI JMD (HC)
13 Petitioner,)
14) ORDER VACATING THE NOVEMBER 7,
15 v.) 2008 ORDER ADOPTING THE FINDINGS
16) AND RECOMMENDATION
17 D.K. SISTO,) [Doc. #44]
18 Respondent.)
19)
_____)
)

21 Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus
22 pursuant to 28 U.S.C. § 2254.

23 On September 24, 2008, the Magistrate Judge issued a Findings and Recommendation that
24 recommended the petition be DENIED with prejudice. The Magistrate Judge further recommended
25 that the Clerk of Court be DIRECTED to enter judgment. The Findings and Recommendation was
26 served on all parties and contained notice that any objections were to be filed within thirty (30) days
27 of the date of service of the order. The deadline passed and no objections were filed. On November
28 7, 2008, the Court issued an order adopting in full the Findings and Recommendation.

On November 19, 2008, Petitioner filed a motion for reconsideration. He claims that he was not aware of and did not receive the Findings and Recommendation. Petitioner now seeks an opportunity to file objections to the Findings and Recommendation.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1) The November 7, 2008 order adopting the Findings and Recommendation is vacated;

6 2) The Clerk of Court is directed to serve a copy of the Findings and Recommendation

7 to Petitioner with this order; and

8 3) Petitioner is granted thirty days from the date of service of this order in which to file

9 objections to the Findings and Recommendation. Respondent shall have 10 court

10 days (plus three days if served by mail) from the date of service of any objections to

11 file and serve a reply.

13 || IT IS SO ORDERED.

14 | Dated: November 24, 2008

/s/ Anthony W. Ishii
CHIEF UNITED STATES DISTRICT JUDGE